IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1188/2005

RAKESH KUMAR Vs. STATE OF RAJASTHAN

DATE: 11.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. A.N. Khan for the accused-petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.
Mr. Sunil Tyagi for the complainant.

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The present criminal revision petition under Section 397/401 Cr.P.C. is preferred by the accused-petitioner against the order dated 26.10.2005 passed by the Additional Sessions Judge (Fast Track) No.2, Jhunjhunu in Sessions Case No. 144/2005, whereby the Court below has framed charges against the accused-petitioner for the offence under Sections 450, 459, 341, 326 and 324 IPC.

The main challenge to the impugned order dated 26.10.2005 is on the ground that offence under Section 459 IPC is not made out against the accused-petitioner as he was invitee and was sitting in the drawing room and the offence under Section 459 IPC is only made out when grievous hurt caused whilst committing lurking house trespass or house breaking.

Learned counsel for the petitioner further submits that the offence under Section 326 IPC is also not made out against the petitioner as the injury was not grievous but was simple in nature.

Per contra, learned counsel appearing for the complainant as well as learned Public Prosecutor for the State submits that it is not a case and the petitioner has misrepresented before this Court. They further referred the FIR, wherein it was categorically stated that the petitioner was earlier sitting in the room but thereafter he went away and brought a sword and knife with him and caused injury after house trespass. Therefore, the offence under Section 459 IPC is made out against the accused-petitioner.

They also referred the opinion expressed by the doctor and as per the injury report and the opinion of the doctor, offence under Section 326 IPC is also made out against the accused-petitioner.

Having heard the rival submissions of the respective parties and after going through the impugned order dated 26.10.2005 as well as the relevant record, the Court below has prima-facie found that the charges for the offences under Sections 450, 459, 341, 326 and 324 IPC is made out against the accused-petitioner, which requires no interference by this Court at this stage.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/